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Executive Order 78

August 31, 2021

Mandatory Vaccination or Test Requirement for City Employees and Covered Employees of City Contractors

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WHEREAS, the COVID-19 pandemic poses a danger to the health and safety of the City of New York and its residents;

WHEREAS, the U.S. Centers for Disease Control ("CDC") reports that new variants of COVID-19, identified as "variants of concern," have emerged in the United States, and some of these new variants, which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible;

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated;

WHEREAS, the City and its contractors provide services to all New Yorkers that are critical to the health, safety, and well-being of City residents, and should take reasonable measures to reduce the transmission of COVID-19 when providing such services;

WHEREAS, a study by Yale University demonstrated that the New York City Department of Health's vaccination campaign was estimated to have prevented about 250,000 COVID-19 cases, 44,000 hospitalizations and 8,300 deaths from COVID-19 infection since the start of vaccination through July 1, 2021, and the Department believes the number of prevented cases, hospitalizations and death has risen since then; and that between January 1, 2021, and June 15, 2021, over 98% of hospitalizations and deaths from COVID-19 infection involved those who were not fully vaccinated;

WHEREAS, it is essential that the City promote the best health and safety practices recognized in light of current scientific understanding of the conditions under which COVID-19 can spread; and

NOW, THEREFORE, by the power vested in me as the Mayor of the City of New York, it is hereby ordered:

Section 1. City employees must either:

- a. Provide the City agency or office where they work with proof of full vaccination by September 13, 2021, or
- b. Beginning September 13, 2021, and on a weekly basis thereafter until the employee submits proof of full vaccination, provide the City agency or office where they work with proof of a negative COVID-19 PCR diagnostic test (not an antibody test).

Nothing in this Order shall preclude a City agency from requiring an employee who has been vaccinated to be tested for COVID-19 or preclude a City agency from requiring employees to be tested more frequently than once a week.

§ 2. Any City employee who does not comply with this Order may be subject to disciplinary action.

§ 3. All City agencies must take all necessary actions to require their contractors to require their covered employees to either:

- a. Provide their employer with proof of full vaccination by September 13, 2021, or
- b. Beginning September 13, 2021, and on a weekly basis thereafter until the employee submits proof of full vaccination, provide their employer with proof of a negative COVID-19 PCR diagnostic test (not an antibody test).

All such contractors shall submit a certification to their contracting agency confirming that they are requiring their covered employees to provide such proof. If contractors are non-compliant, the contracting City agencies may exercise any rights they may have under their contract.

§ 4. For purposes of this Order:

- a. The term "full vaccination" means at least two weeks have passed after a person received a single-dose of an FDA- or WHO- approved COVID-19 vaccine or the second dose of an FDA- or WHO- approved two-dose COVID-19 vaccine except that, for the purposes of this Order, a City employee or covered employee of a contractor who provides documentation of having received one dose of any COVID-19 vaccine before September 13, 2021 will be considered fully vaccinated even though two weeks have not passed since their final dose, so long as, if such City employee or covered employee of a contractor received a two-dose vaccine, the employee provides documentation that the second dose has been administered before October 28, 2021.
- b. The term "contract" means a contract awarded by the City, and any subcontract under such a contract, for work: (i) to be performed within the City of New York; and (ii) where employees can be expected to physically interact with City employees or members of the public in the course of performing work under the contract.
- c. The term "contractor" means a person or entity that has a City contract, including the subcontracts described in the definition of "contract."
- d. The term "covered employee" means a person: (i) employed by a contractor or subcontractor holding a contract; (ii) whose salary is paid in whole or in part from funds provided under a City contract; and (iii) who performs any part of the work under the contract within the City of New York. However, a person whose work under the contract does not include physical interaction with City employees or members of the public shall not be deemed to be a covered employee.
- e. The term "City employee" means a full or part-time employee, intern, or volunteer of a City agency.

§ 5. Each City agency shall send each of its contractors notice that the Mayor has directed contractors to comply with the requirement of section 3 of this Order and request a response from each such contractor, as soon as possible, with regard to the contractor's intent to follow this Order.

§ 6. This Order shall take effect immediately. Nothing in this Order shall affect the enforcement of other orders issued by the Mayor, the Commissioner of Citywide

Administrative Services, the Commissioner of Health and Mental Hygiene, or the Board of Health.

Bill de Blasio,
MAYOR

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